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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,511	12/21/2001	Shigeo Kittaka	02410268AA	2183

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EXAMINER

NGUYEN, TUAN M

ART UNIT

PAPER NUMBER

2828

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,511

Applicant(s)

KITTAKA ET AL.

Examiner

Tuan M Nguyen

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.


- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.


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Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding to claim 1, claim recites an optical device made of a periodic multilayer structure. The claim fails to recite any periodic multilayer structure, and any structural relationship in order to support the claim, which render the claim confusing, vague and indefinite.

Regarding to claim 10, the claim recites a semiconductor laser without any structure and any structural relationship in order to conform the laser structure. The claim also recites a first surface substantially perpendicular to layer surfaces of the periodic multilayer structure and a second surface substantially parallel to the layer surfaces of the periodic multilayer structure. It is unclear as what the first/second surfaces substantially is meant which render the claim confusing, vague and indefinite. The claim further recites a semiconductor laser confronted with the first surface, and a photo detector confronted with the second surface without the recitation of any means plus function as required by 35 USC 112, 2nd paragraph.

Claim Rejections - 35 USC § 102

Art Unit: 2828

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Normandin et al (5,111,466).

With respect to claims 1 and 10, Normandin discloses optical multiplayer structure comprising a periodic multiplayer structure (71), a laser source (73) and light detected by a detector (79), note col. 7, see fig. 9.

With respect to claim 2, Normandin discloses a multiplayer film formed on a substrate transparent to the wavelength, note col. 8, see fig. 10.

With respect to claim 3, Normandin discloses the multiplayer structure having layer faces perpendicular to a surface of a substrate, see fig. 10.

With respect to claims 4-9, Normandin discloses a semiconductor laser (85) and photo detector (93) and substrate (83), note col. 8, see fig 10.

With respect to claim 11, Normandin discloses common substrate supporting the optical device, semiconductor laser and photo detector, note cols. 7-8, see figs. 9-10.

With respect to claims 12-13, Normandin discloses substrate (83), multiplayer structure (81), note col. 8, see fig. 10.

Citation Of The Pertinent References

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2828

The patent to Duveneck et al (US patent 6,469,785) discloses optical detection device based on semiconductor laser array.

The patent to Sekiguchi (US patent 5,299,045) discloses light detecting apparatus having a diffraction grating.

The patent to Inoue et al (US patent 5,033,810) discloses optical device.

Communication Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan M Nguyen whose telephone number is (703) 306-0247.

The examiner can normally be reached on 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-5511 for regular communications and (703) 306-5511 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.



Paul Ip
SPE
Art unit 2828

TMN
November 15, 2002